

REMARKS

This responds to the Office Action, dated February 20, 2007. Claims 114, 121, 124, 126 to 128, 133, 135, 141, and 144 have been amended. Claims 122, 136, 139, 130, 142, and 143 have been canceled. No claims have been added. Accordingly, claims 114, 118 to 121, 123 to 129 to 135, 141, and 144 are presented for examination.

Amendments to the Specification

The specification has been amended to include a portion of the disclosure of WO 98/51325, which is incorporated by reference on page 3, lines 7 to 8, of the application. Specifically, page 46, lines 20 to 24, of WO 98/51325 (attached herewith) have been incorporated into the specification of the present application.

No new matter has been added.

Amendments to the Claims

Claims 114 and 126 have been amended to recite "d-form" retro-inverted peptides and to recite those portions of the receptors to which the peptides bind. Support for this amendment is found on page 3, lines 7 to 8, which incorporates WO 98/51325 by reference.

Claim 121 has been amended to include the recitations of claims 139 and 140.

Claim 124 has been amended in view of the amendment to claim 121.

Claim 126 has been further amended to include the recitations of claims 142 and 143.

Claims 127 and 128 have been amended to include the recitations of claims 139 and 140.

Claim 133 has been amended to recite proper alternative language.

Claim 135 has been amended include the recitations of claims 139 and 140.

Claims 141 and 144 have been amended to address antecedent basis issues.

No new matter has been added.

Summary of the Examiner's Action

Claim Objections

Claims 114, 126, and 139 to 144 have been objected to for informalities.

Claim Rejections

Claims 114, 118 to 136, and 139 to 144 have been rejected under 35 U.S.C. §112, first paragraph, (written description) as containing subject matter which was not described in such a way as to reasonably convey to one skilled in the relevant art that the inventor was in possession of the invention at the time the application was filed.

Claims 114, 118 to 136, and 139 to 144 have been rejected under 35 U.S.C. §112, first paragraph, (enablement) because the specification is not enabled for the full scope of the invention.

Claims 121 to 126, 129 to 131, 133, 135, 136, and 139 to 144 have been rejected under 35 U.S.C. §112, second paragraph, as failing to set forth the subject matter which applicant regards as his invention.

ARGUMENTS

The Objections to Claims 114, 126, and 139 to 144

Claims 114, 126, and 139 to 144 have been objected to for informalities.

Claims 114 and 126 have been amended as suggested by the Examiner. Claims 141 and 144 have been amended to recite "The composition..." instead of "A composition...". Claims 139, 140, 142, and 143 have been canceled.

Accordingly, applicant respectfully requests that the Examiner's objections to claims 114, 126, and 139 to 144 be withdrawn.

The 35 U.S.C. §112, First Paragraph, Rejections

Both written description and enablement rejections are discussed herein.

Claims 114, 118 to 136, and 139 to 144 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description and enablement requirements. In particular, the Examiner asserts that the specification lacks support for wherein the claimed peptides bind to the gastro-intestinal tract receptors HPT1, HPEPT1, D2H or hSI.

Claims 114 and 126 have been amended to include the amino acid sequences to which the claimed peptides bind. Support for these amendments is found the presently amended

specification which has been amended to include a portion of the disclosure of WO 98/51325, which is incorporated by reference on page 3, lines 7 to 8, of the application. Specifically, page 46, lines 20 to 24, of WO 98/51325 have been incorporated into the specification and claims 114 and 126 of the present application.

Claims 121 and 126 have also been rejected for failing to list specific active agents. Claims 121, 126 to 128, and 135 have been amended to include the recitations of claims 139 and 140 or 142 and 143. Claim 124 has been amended in view of the amendment to claim 121.

In view of the above-identified amendments, applicant respectfully requests that the rejection of claims 114 and 126, and those claimed dependent thereon (directly and indirectly) under 35 U.S.C. §112, first paragraph, be withdrawn.

The 35 U.S.C. §112, Second Paragraph, Rejections

Claims 121 to 126, 129 to 131, 133, 135, 136, and 139 to 144 stand rejected under 35 U.S.C. §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner asserts that claim 121 is indefinite for failing to list specific active agents.

Claim 121 has been amended to include the recitations of claims 139 and 140.

Claims 133, 135, 139, and 142 have been rejected for reciting improper Markush format.

Applicant respectfully traverses the rejection.

MPEP §2173.05(h) states:

Alternative expressions using "or" are acceptable, such as "wherein R is A, B, C, or D."

Claim 133 recites, in part:

"...wherein the peptide is coated onto the surface of a nanoparticle or microparticle, or absorbed onto the surface of a nanoparticle or microparticle, or covalently bonded to the surface of a nanoparticle or microparticle."

Applicant submits that presently amended claim 133 utilizes the "wherein R is A, B, C, or D" as prescribed by MPEP §2173.05(h):

R is "the peptide";

A is "coated onto the surface of a nanoparticle or microparticle";

B is "absorbed onto the surface of a nanoparticle or microparticle"; and

C is "covalently bonded to the surface of a nanoparticle or microparticle".

Accordingly, claim 133 is in proper alternative language format.

Claim 135 recites, in part:

"...wherein the nanoparticle or microparticle is a drug-loaded nanoparticle or microparticle or drug-encapsulating nanoparticle or microparticle..."

Applicant also submits that presently amended claim 135 utilizes the "wherein R is A, B, C, or D" as prescribed by MPEP §2173.05(h):

R is "the nanoparticle or microparticle";

A is "a drug-loaded nanoparticle or microparticle"; and

B is "a drug-encapsulating nanoparticle or microparticle".

Accordingly, claim 135 is in proper alternative language format.

Claims 139 and 142 have been canceled.

In view of the above-identified amendments, Applicants respectfully request that the rejection of claims 121 to 126, 129 to 131, 133, 135, 136, and 139 to 144 under 35 U.S.C. §112, second paragraph, be withdrawn.

A favorable action on the merits is requested respectfully.

It is hereby requested that the term to respond to the Action, dated January 23, 2007, be extended three months, from May 20, 2007 to August 20, 2007. Payment to cover the extension fee has been submitted electronically. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 19-5425.

Respectfully submitted,

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